

**ASSEMBLY BILL**

**No. 524**

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**Introduced by Assembly Member Davis**

February 25, 2009

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An act to amend Sections 1812.50, 1812.51, 1812.52, 1812.53, 1812.54, 1812.55, 1812.56, 1812.57, 1812.59, 1812.60, 1812.63, 1812.64, 1812.65, and 1812.67 of, and to amend the heading of Title 2.4 (commencing with Section 1812.50) of Part 4 of Division 3 of, the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 524, as introduced, Davis. Contracts: acting schools.

Existing law regulates contracts for dance studios and other services, defined to include ballroom or other types of dancing, and lessons and other services, whether given to students individually or in groups, as provided.

Existing law also provides that every contract for dance studio lessons shall be in writing and shall not require payments or financing by the buyer over a period in excess of one year. Existing law allows for the cancellation of dance studio contracts, as provided.

Existing law provides that any person who violates the provisions relating to dance studio contracts is guilty of a misdemeanor.

Existing law requires a dance studio to maintain a bond issued by a surety company and filed with the Secretary of State.

This bill would add acting schools to these provisions.

Because this bill would impose additional requirements on acting schools, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. The heading of Title 2.4 (commencing with  
2     Section 1812.50) of Part 4 of Division 3 of the Civil Code is  
3     amended to read:

4  
5           TITLE 2.4. CONTRACTS FOR DANCE STUDIO AND  
6           *ACTING SCHOOL* LESSONS AND OTHER SERVICES  
7

8     SEC. 2. Section 1812.50 of the Civil Code is amended to read:

9     1812.50. (a) The Legislature finds that there exists in  
10    connection with a substantial number of contracts for dance studio  
11    or *acting school* lessons and other services, sales practices, and  
12    business and financing methods which have worked a fraud, deceit,  
13    imposition, and financial hardship upon the people of this state;  
14    that existing legal remedies are inadequate to correct these abuses;  
15    that the dance studio and *acting school* industry has a significant  
16    impact upon the economy and well-being of this state and its local  
17    communities; and that the provisions of this title relating to these  
18    contracts are necessary for the public welfare.

19    (b) The Legislature declares that the purpose of this title is to  
20    safeguard the public against fraud, deceit, imposition, and financial  
21    hardship, and to foster and encourage competition, fair dealing,  
22    and prosperity in the field of dance studio and *acting school* lessons  
23    and other services by prohibiting or restricting false or misleading  
24    advertising, onerous contract terms, harmful financial practices,  
25    and other unfair, dishonest, deceptive, destructive, unscrupulous,  
26    fraudulent, and discriminatory practices by which the public has  
27    been injured in connection with contracts for dance studio or *acting*  
28    *school* lessons and other services.

29    SEC. 3. Section 1812.51 of the Civil Code is amended to read:

1     1812.51. As used in this title, “contract for dance studio *or*  
2     *acting school* lessons and other services” means a contract for  
3     instruction in ballroom or other types of dancing, and includes  
4     *acting school lessons, and* lessons and other services, whether  
5     given to students individually or in groups. This title does not  
6     include contracts for professional services rendered or furnished  
7     by a person licensed under Division 2 (commencing with Section  
8     500) of the Business and Professions Code, or contracts for  
9     instruction at schools operating pursuant to the Education Code.

10    SEC. 4. Section 1812.52 of the Civil Code is amended to read:

11    1812.52. Every contract for dance studio *or acting school*  
12    lessons and other services shall be in writing and shall be subject  
13    to this title. A copy of the written contract shall be given to the  
14    customer at the time he or she signs the contract.

15    SEC. 5. Section 1812.53 of the Civil Code is amended to read:

16    1812.53. (a) No contract for dance studio *or acting school*  
17    lessons and other services shall require payments or financing by  
18    the buyer over a period in excess of one year from the date the  
19    contract is entered into, nor shall the term of any contract be  
20    measured by the life of the buyer. However, the lessons and other  
21    services to be rendered to the buyer under the contract may extend  
22    over a period not to exceed seven years from the date the contract  
23    is entered into.

24    (b) All contracts for dance studio *or acting school* lessons and  
25    other services that may be in effect between the same seller and  
26    the same buyer, the terms of which overlap for any period, shall  
27    be considered as one contract for the purposes of this title.

28    SEC. 6. Section 1812.54 of the Civil Code is amended to read:

29    1812.54. (a) Every contract for dance studio *or acting school*  
30    lessons and other services shall provide that performance of the  
31    agreed-upon lessons will begin within six months from the date  
32    the contract is entered into.

33    (b) A contract for dance studio *or acting school* lessons and  
34    other services may be canceled by the student at any time provided  
35    he or she gives written notice to the dance studio *or acting school*  
36    at the address specified in the contract. When a contract for dance  
37    studio *or acting school* lessons and other services is canceled the  
38    dance studio *or acting school* shall calculate the refund on the  
39    contract, if any, on a pro rata basis. The dance studio *or acting*  
40    *school* shall refund any moneys owed to the student within 10 days

1 of receiving the cancellation notice, unless the student owes the  
2 dance studio *or acting school* money for studio lessons or other  
3 services received prior to the cancellation, in which case any  
4 moneys owed the dance studio *or acting school* shall be deducted  
5 by the dance studio from the refund owed to the student and the  
6 balance, if any, shall be refunded as specified above. A dance  
7 studio *or acting school* shall not charge a cancellation fee, or other  
8 fee, for cancellation of the contract by the student.

9 (c) Every contract for dance studio *or acting school* lessons and  
10 other services shall contain a written statement of the hourly rate  
11 charged for each type of lesson for which the student has  
12 contracted. If the contract includes dance studio *or acting school*  
13 lessons that are sold at different per-hour rates, the contract shall  
14 contain separate hourly rates for each different type of lesson sold.  
15 All other services for which the student has contracted that are not  
16 capable of a per-hour charge shall be set forth in writing in specific  
17 terms. The statement shall be contained in the dance studio *or*  
18 *acting school* contract before the contract is signed by the buyer.

19 (d) Every dance studio *or acting school* subject to Sections  
20 1812.64 and 1812.65 shall include in every contract for dance  
21 studio *or acting school* lessons or other services a statement that  
22 the studio is bonded and that information concerning the bond may  
23 be obtained by writing to the office of the Secretary of State.

24 SEC. 7. Section 1812.55 of the Civil Code is amended to read:

25 1812.55. No contract for dance studio *or acting school* lessons  
26 and other services shall require or entail the execution of any note  
27 or series of notes by the buyer which, when separately negotiated,  
28 will cut off as to third parties any right of action or defense which  
29 the buyer may have against the seller.

30 SEC. 8. Section 1812.56 of the Civil Code is amended to read:

31 1812.56. No right of action or defense arising out of a contract  
32 for dance studio *or acting school* lessons and other services which  
33 the buyer has against the seller, and which would be cut off by  
34 assignment, shall be cut off by assignment of the contract to any  
35 third party whether or not he or she acquires the contract in good  
36 faith and for value unless the assignee gives notice of the  
37 assignment to the buyer as provided in this section and, within 30  
38 days of the mailing of notice, receives no written notice of the  
39 facts giving rise to the claim or defense of the buyer. A notice of  
40 assignment shall be in writing addressed to the buyer at the address

1 shown on the contract and shall identify the contract and inform  
2 the buyer that he or she shall, within 30 days of the date of mailing  
3 of the notice, notify the assignee in writing of any facts giving rise  
4 to a claim or defense which he or she may have. The notice of  
5 assignment shall state the name of the seller and buyer, a  
6 description of the lessons and other services, the contract balance,  
7 and the number and amount of the installments.

8 SEC. 9. Section 1812.57 of the Civil Code is amended to read:

9 1812.57. (a) Every contract for dance studio *or acting school*  
10 lessons and other services shall contain a clause providing that if,  
11 by reason of death or disability, the person agreeing to receive  
12 lessons and other services is unable to receive all lessons and other  
13 services for which he or she has contracted, the person and his or  
14 her estate shall be relieved from the obligation of making payment  
15 for lessons and other services other than those received prior to  
16 death or the onset of disability, and that if the buyer has prepaid  
17 any sum for lessons and other services so much of that sum as is  
18 allocable to lessons and other services he or she has not taken shall  
19 be promptly refunded to the buyer or his or her representative.

20 (b) Notwithstanding the provisions of any contract to the  
21 contrary, whenever the contract price is payable in installments  
22 and the buyer is relieved from making further payments or entitled  
23 to a refund under this section, the buyer shall be entitled to receive  
24 a refund or refund credit of so much of the cash price as is allocable  
25 to the lessons or other services not actually received by the buyer.  
26 The refund of the finance charge shall be computed according to  
27 the "sum of the balances method," also known as the "Rule of 78".  
28 78."

29 SEC. 10. Section 1812.59 of the Civil Code is amended to  
30 read:

31 1812.59. Any contract for dance studio *or acting school* lessons  
32 and other services which does not comply with the applicable  
33 provisions of this title shall be void and unenforceable as contrary  
34 to public policy.

35 SEC. 11. Section 1812.60 of the Civil Code is amended to  
36 read:

37 1812.60. Any contract for dance studio *or acting school* lessons  
38 and other services entered into in reliance upon any willful and  
39 false, fraudulent, or misleading information, representation, notice,  
40 or advertisement of the seller shall be void and unenforceable.

1 SEC. 12. Section 1812.63 of the Civil Code is amended to  
2 read:

3 1812.63. Any person who violates any provision of this title  
4 relating to dance studio *or acting school* contracts is guilty of a  
5 misdemeanor. Any superior court of this state has jurisdiction in  
6 equity to restrain and enjoin the violation of any of the provisions  
7 of this title relating to dance studio *or acting school* contracts.

8 The duty to institute actions for violation of those provisions of  
9 this title, including equity proceedings to restrain and enjoin  
10 violations, is hereby vested in the Attorney General, district  
11 attorneys, and city attorneys. The Attorney General, any district  
12 attorney, or any city attorney may prosecute misdemeanor actions  
13 or institute equity proceedings, or both.

14 This section shall not be deemed to prohibit the enforcement by  
15 any person of any right provided by this or any other law.

16 SEC. 13. Section 1812.64 of the Civil Code is amended to  
17 read:

18 1812.64. Every dance studio *or acting school* shall maintain a  
19 bond issued by a surety company admitted to do business in this  
20 state. The principal sum of the bond shall be 25 percent of the  
21 dance studio's *or acting school's* gross income from the studio  
22 business in this state during the studio's last fiscal year, except  
23 that the principal sum of the bond shall not be less than twenty-five  
24 thousand dollars (\$25,000) in the first or any subsequent year of  
25 operation.

26 A copy of the bond shall be filed with the Secretary of State,  
27 together with a declaration under penalty of perjury signed by the  
28 owner of the studio stating the dance studio's *or acting school's*  
29 gross income from the dance studio *or acting school* business in  
30 this state during the last fiscal year. The information contained in  
31 the declaration shall not be subject to public inspection. If the  
32 person in whose name the bond is issued severs his or her  
33 relationship with the bonded dance studio *or acting school*, the  
34 new owner shall, as a condition of doing business, notify the  
35 Secretary of State of the change of ownership and of proof of  
36 compliance with Sections 1812.64 and 1812.65.

37 SEC. 14. Section 1812.65 of the Civil Code is amended to  
38 read:

39 1812.65. The bond required by Section 1812.64 shall be in  
40 favor of the State of California for the benefit of any person who,

1 after entering into a contract for dance studio *or acting school*  
2 lessons and other services with the dance studio *or acting school*,  
3 is damaged by fraud or dishonesty or failure to provide the services  
4 of the studio in performance of the contract.

5 SEC. 15. Section 1812.67 of the Civil Code is amended to  
6 read:

7 1812.67. (a) Sections 1812.64 and 1812.65 do not apply to  
8 any dance studio *or acting school* which requires or receives less  
9 than fifty dollars (\$50) in advance payments from or on behalf of  
10 each student for dance studio *or acting school* lessons or other  
11 services which are to be rendered by the studio in the future and  
12 such advance payments are not required or received by the studio  
13 from each student more frequently than once every 30 days.

14 (b) Sections 1812.53, 1812.54, 1812.64, and 1812.65 do not  
15 apply to a dance studio which only offers instruction in ballet,  
16 modern, jazz, tap dance, or any combination thereof, to persons  
17 under 21 years of age pursuant to a contract for dance studio  
18 lessons that provides all of the following: (1) a total payment of  
19 less than five hundred dollars (\$500), (2) that all agreed-upon  
20 lessons will be offered within four months from the date the  
21 contract is entered, and (3) that the contract may be canceled and  
22 all money paid for instruction not yet received will be refunded  
23 within 10 days of cancellation, if the dance student cancels within  
24 three days after receiving the first lesson, or if the dance student  
25 cancels at any time after moving his or her residence to a location  
26 more than 15 miles from the location of the dance studio.

27 (c) Sections 1812.53, 1812.54, 1812.64, and 1812.65 do not  
28 apply to any organization that has qualified for a tax exemption  
29 under Section 501(c)(3) of the Internal Revenue Code and which  
30 receives a direct grant of funds from the California Arts Council.

31 SEC. 16. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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